

REMARKS

1. In response to the Office Action mailed June 20, 2008, Applicants hereby request reconsideration of the rejections. Claims 1-25 were presented in this application for examination, of which all were rejected. By the foregoing amendments, claims 1 and 17 have been amended, and claims 15, 16, 24, and 25 have been canceled. Thus, upon entry of this paper, claims 1-14 and 17-23 will be pending in this application. Of these twenty-one (21) claims, one (1) claim (claim 1) is independent.
2. Based on the above amendments and following remarks, Applicants respectfully request that all outstanding rejections be reconsidered and withdrawn.

Claim Amendments

3. Claim 1 has been amended to indicate that the at least one flange is a “pliable flange” and is “bendable by hand”. These amendments are supported at least in the specification at paragraph [0027] of the published patent application.

Claim Rejections

4. Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,906,635 to Maniglia (“Maniglia” herein). As amended, claim 1 recites “at least one pliable flange”, where the flange is “bendable by hand to conform with tissue within the body of the recipient” when the housing is positioned on or within the body of a recipient. Maniglia does not disclose either of these limitations. The flange extending from the housing 40 disclosed in Maniglia is necessarily rigid in order to hold the electromagnetic coil housing 40 in place “approximately 0.5 to 1 mm away from the permanent magnet assembly 36.” (Maniglia, Column 4, lines 57-61.) Were the flange extending from the electromagnetic coil housing 40 at all pliable and bendable by hand, this specified spacing could not be maintained, as the flange would bend under the weight of the electromagnetic coil housing 40 and the implant disclosed in Maniglia would not function as intended. For this reason, Maniglia does not anticipate amended claim 1.

5. All other claims remaining in the application ultimately depend from claim 1. Where Maniglia does not anticipate amended claim 1, it also does not anticipate any of the dependent claims.

Dependent Claims

6. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter, which makes them *a fortiori* and independently patentable over the art of record. Accordingly, Applicants respectfully request that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Conclusion

7. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

8. Applicant reserves the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Thus, cancellations and amendments of above claims, are not to be construed as an admission regarding the patentability of any claims.

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Respectfully submitted,

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